

Water Agency

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Contra Costa



Board of Supervisors
(Ex-Officio Governing Board)

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May 1, 2008

Members of the State Water Resources
Control Board
Post Office Box 100
Sacramento, CA 95812-0100

RE: Bay-Delta Strategic Workplan

Dear Board Members:

The State Water Resources Control Board (State Board) is developing a Strategic Workplan to protect the beneficial uses of the Bay-Delta Estuary. The Contra Costa Water Agency and Contra Costa County Flood Control and Water Conservation District would like to offer some comments to the State Board as you move forward in the Workplan process. From our perspective, there are three primary issues of concern; water quality in the Bay-Delta, the quantity and timing of flows through the Bay-Delta Estuary, and water rights protection for area-of-origin delta water users, which are management parameters the State Board has authority on.

The dramatic decline of fish species and populations in the Delta is worsening. This increasingly severe decline of the fishery indicates a failure of the existing regulatory and management framework to insure necessary water quality and flow quantities required to protect Delta habitat. Unfortunately there are a multitude of state, federal and local public agencies that have some jurisdiction in the Delta. This has led to narrow "silo" efforts and interests that limit the ability to have a truly system-wide plan to protect the Delta habitat.

A comprehensive, overarching regulatory framework to protect the Delta ecosystem is currently non-existent. This is clearly underscored as evidence continues to mount that the ecosystem is in a state of collapse. The Workplan should provide a broad holistic view of what is required to restore and protect the Delta. The time has long passed for governmental entities to continue their myopic "business as usual" practices as it relates to the Delta.

Water flow management through the Delta is dictated primarily by the state's agricultural, municipal and industrial need for water. As a result, operations of water conveyance facilities move water in a north-south direction in the Delta for export out of the South Delta. The survival of fish populations, however, is dependent on the natural movement of water in an east-west direction to the west Delta and into San Francisco Bay. The Workplan should include a regulatory framework that will ensure the continuous flows necessary to the west Delta and into the Bay.

Development of a Strategic Workplan must be based on the premise that state agencies have a public trust to protect the Delta, especially water quality for habitat and drinking water. The State Board has broad state and federal authorities to adopt policies, issue permits and to enforce penalties on water users and dischargers into the Delta. In the spirit of public trust, the Workplan should establish the State

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Board's role to provide oversight and enforce protection of the Delta's beneficial uses rather than being a partner agency in the overall movement of water through, or around, the Delta.

In its efforts to balance beneficial uses, the Strategic Workplan needs to protect existing water rights for in-delta, and/or area-of-origin water users that use water efficiently. For example, in its efforts to protect habitat, and to export water, water quality within the delta for local municipal, industrial and agricultural use could diminish, threatening water supply to residents in and around the delta.

We note the State Board's intent in its Strategic Plan to address the issue of water use efficiency to protect beneficial uses of water. We believe that efficient or inefficient use of water is not a fixed judgment, but is rather something that should evolve as circumstances change and our understanding improves. Applicable criteria should include, for example, whether a given use creates other water problems (such as increased selenium), and whether the value of an agricultural crop bears some reasonable relationship to the water used. In its review of the reasonable use of water, the State Board should consider regional self-sufficiency scenarios to reduce stress on the delta, such as conservation practices, use of reclaimed water and greywater, as well as other technologies such as desalination, to offset demand. Implementation and enforcement of some or all of these opportunities may require revision of existing laws and regulations.

There are currently multiple ongoing efforts to address the Delta crisis, with various agencies, task forces and others developing different strategic/implementation plans. Will these plans be integrated into one overarching master plan to develop a comprehensive solution that will protect the quality and environmental integrity of the Delta region? We encourage the State Board to be proactive and engaged in these Delta strategies and to ensure that the priority values of water quality and ecosystem health are part of any solution.

The State Board's resolution (Attachment B) on the Delta includes consideration of a proceeding to protect public trust resources. An effective strategy for protecting the Delta, especially regarding excess diversions, must rely at least in part on the Public Trust Doctrine. Mono Lake was a successful example of protecting public trust resources and allowing diversion for other uses.

Thank you for your consideration of our recommendations.

Sincerely,


Roberta Goulart
Executive Officer

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Enclosures

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